

**TOWN OF DEDHAM
ZONING BOARD OF APPEALS
26 BRYANT STREET, DEDHAM, MASSACHUSETTS 02026**



ZONING BOARD MEMBERS

JAMES F. MCGRIL, ESQ., *CHAIRMAN*
J. GREGORY JACOBSEN, *VICE CHAIRMAN*
SCOTT M. STEEVES
E. PATRICK MAGUIRE, LEED AP
JASON L. MAMMONE, P.E.

ASSOCIATE MEMBERS

JH RUMPP, AICP
JESSICA L. PORTER

STAFF

SUSAN WEBSTER, ADMINISTRATIVE ASSISTANT

PHONE 781-751-9242 • FAX 781-751-9225

APPLICANT:

KEVIN AND LESLIE BOWEN

PROJECT ADDRESS:

75 MARTIN BATES STREET

PROPERTY OWNER:

Kevin and Leslie Bowen

CASE #:

VAR-04-12-1510

MAP/LOT:

106/3

ZONING DISTRICT:

Single Residence B

DATE OF APPLICATION:

March 30, 2012

DATE OF HEARING:

April 25, 2012

MEMBERS PRESENT AND VOTING:

James F. McGrail, Esq., J. Gregory Jacobsen, E. Patrick Maguire, LEED AP, Jason L. Mammone, P.E., JH Rumpp, AICP

APPLICANT REPRESENTATIVE:

Peter A. Zahka II, Esq.

PETITION:

To be allowed such Special Permits and/or variances as necessary for an addition to a pre-existing nonconforming dwelling with a side yard setback of six (6) feet, an addition to said dwelling with a rear yard setback of eleven (11) feet, lot coverage of 36%, and work resulting in excess of 25% impervious surface in the Aquifer Protection Overlay District on a pre-existing nonconforming lot.

SECTION OF ZONING BY-LAW:

Section 4 (Table 2), Sections 3.3.5, 8.2, 8.2.7, 9.2.2, and 9.3

DATE OF FILING WITH TOWN CLERK: MAY 3, 2012

The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on Wednesday, April 25, 2012, in the Town Office Building, Bryant Street, Dedham, MA. Present were members of the ZBA, James McGrail, Esq., Chairman, J. Gregory Jacobsen, E. Patrick Maguire, LEED AP, and Jason L. Mammone, P.E. In the absence of Member Scott Steeves, the Chairman appointed Associate Member J.H. Rumpp, AICP, to sit for these hearings. The hearings at this meeting of the ZBA were duly advertised in accordance with the requirements of MGL Chapter 40A, Section 11.

At 8:10 p.m., the Chairman called for the hearing on the appeal of Kevin and Leslie Bowen, 75 Martin Bates Street, Dedham, MA, to be allowed such special permits and/or variances as may be required for an addition to a pre-existing nonconforming dwelling with a side yard setback of six (6) feet, an addition to said dwelling with a rear yard setback of eleven (11) feet, lot coverage of 36%, and work resulting in excess of 25% impervious surface in the Aquifer Protection Overlay District on a pre-existing, nonconforming lot at 75 Martin Bates Street in the Single Residence B (SRB) Zoning District. *Town of Dedham Zoning By-Law Section, 4 (Table 2), Sections 3.3.5, 8.2, 8.2.7, 9.2.2 and 9.3.*

Applicants were represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present was Applicant Leslie Bowen. A certified plot plan and photographs of the existing dwelling were submitted with the Application. At the commencement of the hearing, Attorney Zahka submitted additional plans and photographs. The minutes from the hearing are the primary source of evidence and are incorporated herein by reference.

The Subject Property is known and numbered as 75 Martin Bates Street and is shown on Dedham Assessors' Map 106, Lot 3. The certified plot plan indicates that the Subject Property contains approximately 5,617 square feet of land and has approximately 67 feet of frontage. According to the Dedham Zoning Map, the Subject Property is located in the Single Residence B (SRB) Zoning District and the Aquifer Protection Overlay District (APOD). Currently, the Subject Property is occupied by a single-family dwelling. According to the records maintained by the Dedham Board of Assessors, the dwelling was constructed in 1840. Since the Subject Property lacks the area (12,500 square feet required) and frontage (95 feet required) for building lots in the SRB Zoning District, the same is considered pre-existing nonconforming. The existing dwelling is also nonconforming since it is

approximately six (6) feet from side lot line (15 feet required) and is approximately fourteen (14) feet from the rear line (25 feet required).

Applicant proposes a 68 square foot addition to the existing enclosed porch to be used as an art studio or study. As shown on the plot plan, said addition will be about six (six) feet from the side lot line. Applicant also proposes a 508 square foot addition to the rear of the dwelling to be used as a family room. As shown on the plot plan, said addition will be about fourteen (14) feet from the rear lot line. Both additions will be in line with and extend the exterior walls of the dwelling. Upon completion of the construction, the Subject Property will have lot coverage of approximately 36% (30% is allowed) and work resulting in 34% impervious surface (25% is allowed) in the APOD. Applicant notes that, due to the removal of an existing asphalt driveway, the actual increase in impervious surface is only 173 net square feet. Due to the location of abutting dwellings, Applicant indicates that the proposed additions will have little, if any, impact on the surrounding neighborhood. Prior to construction, Applicant is required to submit the proposal to the Dedham Conservation Commission for a Stormwater Management Permit.

In acting upon requests for special permits, the ZBA must determine that the “adverse effects of the proposed use will not outweigh its beneficial impacts” after consideration of the six (6) enumerated factors set forth in Section 9.3 of the Dedham Zoning By-Law. Applicant respectfully submits that it satisfies the requirements and criteria for the issuance of the requested special permits. Specifically, the adverse effects of the Project will not outweigh its beneficial impacts.

No one appeared in favor or in opposition of the Application. Applicant reported that she sent a letter to her neighbors regarding the proposal and requesting anyone with questions to contact her. She stated that only one neighbor contacted her to indicate he had no opposition to the proposal.

Upon motion duly made by Mr. Maguire and seconded by Mr. Rump, the ZBA voted unanimously to grant the requested special permit to allow an addition to a pre-existing nonconforming dwelling with a side yard setback of six (6) feet, an addition to said dwelling with a rear yard setback of eleven (11) feet, lot coverage of 36%, and work resulting in excess of 25% impervious surface in the Aquifer Protection Overlay District. In granting of said special permits, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning By-Law, the adverse effects of

the Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood. Relative to the special permit for work in the APOD, the ZBA finds that the proposal is in harmony the By-Law, is appropriate for the characteristics of the site, and will not adversely impact the environment or water supply.

Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed or that an appeal has been filed within such time shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County.

Dated: May 2, 2012

James F. McGrail, Esq., Chairman

J. Gregory Jacobsen

E. Patrick Maguire, LEEP AP

Jason Mammone, P. E.

J. H. Rumpp, AICP